

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AARON ABADI,

Plaintiff,

v.

**AMERICAN AIRLINES GROUP, INC.,
ET AL.,**

Defendants.

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Case No. 1:23-cv-04033-LJL

**DEFENDANT SILVER AIRWAYS, LLC’S NOTICE OF JOINDER
IN MOTION TO DISMISS FILED BY CO-DEFENDANTS AMERICAN AIRLINES,
INC., DELTA AIRLINES, INC., JETBLUE AIRWAYS CORPORATION, SOUTHWEST
AIRLINES CO., UNITED AIRLINES, INC., ROBERT LAND, ROY GOLDBERG,
DEBBIE CASTLETON, AND NATHALIE SIMON**

Defendant Silver Airways, LLC (“Silver”) files the following Notice of Joinder in Motion to Dismiss filed by Co-Defendants American Airlines, Inc., Delta Airlines, Inc., JetBlue Airways Corporation, Southwest Airlines Co., United Airlines, Inc., Robert Land, Roy Goldberg, Debbie Castleton, and Nathalie Simon, and would respectfully show the Court as follows:

1. On October 30, 2023, several defendants in this action, specifically American Airlines, Inc., Delta Airlines, Inc., JetBlue Airways Corporation, Southwest Airlines Co., United Airlines, Inc., Robert Land, Roy Goldberg, Debbie Castleton, and Nathalie Simon (“Co-Defendant Movants”), filed a Notice of Motion and Motion to Dismiss as to their clients as to 31 of the claims asserted in this action pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). (*See* Dkt. 121 & 122). Later, on November 28, 2023, the Co-Defendant Movants filed a Motion for Judgment on the Pleadings, challenging one additional claim asserted in this action under Federal Rule of Civil Procedure 12(c). (*See* Dkt. 197 & 198).

2. On November 1, 2023, Silver filed its own Motion to Dismiss on different grounds, requesting the dismissal of Plaintiff's Complaint under Federal Rules of Civil Procedure 8 and 12(b)(6). (*See* Dkt. 130 & 132).

3. Following Silver's entry of appearance and filing of its own Motion, Silver has reviewed the Co-Defendant Movants' Motion and Memorandum of Law in Support thereof. Silver is effectively in the same position as several of the Co-Defendant Movants, specifically American Airlines, Inc., United Airlines, Inc., and Southwest Airlines Co., as an airline upon which Plaintiff does not allege he has ever flown or contracted with, but that he nonetheless seeks relief from for the reasons stated in his Complaint.

4. As such, the arguments of the Co-Defendant Movants are largely equally applicable to Silver.

5. Silver hereby gives notice that, in addition to the grounds raised in its own Motion to Dismiss, it hereby joins in the Co-Defendant Movants' Motion to Dismiss (Dkt. 121) and Memorandum in Support (Dkt. 122) as to the following arguments and claims that Plaintiff has likewise asserted against Silver:

- a. Part I of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 8 for violation of 24 U.S.C. § 1985(3);
- b. Part II of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 9 for violation of 24 U.S.C. § 1986;
- c. Part IV of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Counts 10, 11, 12, 13, 14, 15, 16, 17, and 18 for claims under the Air Carrier Access Act;

- d. Part V of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 19 for claims under the Rehabilitation Act;
- e. Part VI of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 20 for violation of the California Unruh Civil Rights Act;
- f. Part VII of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Counts 21 and 22 for violation under the New Jersey Civil Rights Law Against Discrimination;
- g. Part VIII of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Counts 23, 24, and 25 for violation under the New York Civil Rights Law;
- h. Part IX of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 26 for violation of the Texas Civil Rights Law;
- i. Part X of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 27 for claims under of intentional or unintentional tort under the state laws of Texas, New York, New Jersey, California or other states;
- j. Part XI of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 28 for claims of negligence under various state laws;
- k. Part XII of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 29 for claims of intentional infliction of emotional distress;

- l. Part XIII of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 30 for claims of breach of contract;
- m. Part XIV of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 31 for claims of promissory estoppel;
- n. Part XV of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 33 for claims of injurious falsehoods;
- o. Part XVI of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 34 for claims of invasion of privacy;
- p. Part XVII of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 36 for claims of fraudulent misrepresentation;
- q. Part XVIII of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Count 37 for claims of infringement of a constitutional right to travel;
- r. Part XIX of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Plaintiff's claim for nominal damages;
- s. Part XX of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Plaintiff's claim for punitive damages;
- t. Part XXI of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing Plaintiff's lack of standing; and
- u. Part XXII of the Co-Defendant Movants' Memorandum in Support of Motion to Dismiss addressing the issue of mootness.

6. Silver further gives notice that it also joins in the Co-Defendant Movants' Motion for Judgment on the Pleadings (Dkt. 197) and Memorandum in Support (Dkt. 198) as to Count 7 for claims under 42 U.S.C. § 1983.¹

7. By way of this Notice of Joinder, and for the reasons stated in the relevant sections of Co-Defendant Movants' Memorandum in Support of Motion to Dismiss cited above, Silver respectfully requests that the Court dismiss the Counts of Plaintiff's Complaint as asserted against Silver, and for all other relief the Court deems just and proper.

Dated: December 6, 2023

Respectfully submitted,

/s/ Gary A. Gardner

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**ATTORNEYS FOR DEFENDANT
SILVER AIRWAYS LLC**

¹ Several other Defendants have filed their own Motions to Dismiss similar to the one filed by the Co-Defendant Movants, raising largely similar arguments. (See Dkts. 179, 180, 212, 213, 217, 218). Most of these arguments are equally applicable to Silver as well, and Silver likewise adopts those arguments as to Counts 7-31, 33-34, and 36-37 that are also asserted against Silver.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of this document is being served via CM/ECF on all counsel of record who have agreed to accept service electronically in accordance with the applicable Local Rules and Federal Rules of Civil Procedure on December 6, 2023.

/s/ Gary A. Gardner
Gary A. Gardner